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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,540	11/19/2003	John West	101867.56513US	5587
23911 7590 05/21/2007 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER CARIASO, ALAN B	
			ART UNIT 2885	PAPER NUMBER
			MAIL DATE 05/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/715,540

Applicant(s)

WEST ET AL.

Examiner

Alan Cariaso

Art Unit

2885

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

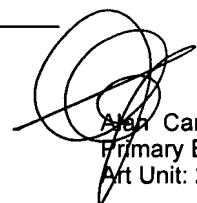
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: 4.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 2, 19-32 and 38.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_

  
Alan Cariaso  
Primary Examiner  
Art Unit: 2885

Continuation of 3. NOTE: New claims 39-44 require further examination for specification support & clarity, and further art consideration for claim 44 which appears to have broader scope..

Continuation of 5. Applicant's reply has overcome the following rejection(s): of Claims 2 & 38 under 35 USC 112 1st parag; of claim 2 under 35 USC 102e (Bianchetti), because of the proposed amendment of claim 2 and cancellation of claim 38.

Continuation of 11. does NOT place the application in condition for allowance because: In regards to claims 19 & 22 rejected under 35 USC 112 1st parag, based on applicant's allegation that "One of skill in the art would therefore understand the orientation of the light guide in the figures and thus would understand which end is proximal and which end is distal to the reflector" against the position of the office action that the claimed "straight wall section immediately distal to the reflecting means" is not supported by the specification, applicant's figures show several embodiments where there are straight sections each light guide which are both proximal, intermediate and distal to the reflector means. There is no clarification nor support from the specification that this claimed feature of the straight wall section being truly limited to being immediately distal to the reflecting means, since it appears that the straight section of the light guide is proximal, intermediary or distal to the reflecting means. In regards to the claims 19 & 22 rejected under 35 USC 102e (by Bianchetti), applicant's allegation that Being an third intermediate portion, 46 (light pipe of Bianchetti) is not "sized to be placed inside a patient's mouth ...", does not overcome the position that the distal end of the light pipe is sized to be placed inside a patient's mouth as recited in parag.9 in the Final office action that meets this recitation of intended use. In regards to applicant's allegation that Bianchetti fails to disclose a light guide that consists of a single material selected from the group consisting of acrylic, plastic or glass not supported by the Office Action citation of (col.2, lines 56-57, the column number is a typographical error and should be col.4, lines 56-57 which recites in Bianchetti "The optical element 40 ... is made of methacrylate", and therefore Bianchetti adequately meets the claimed material. In regards to claims 19-24 and 29-31, applicant disagrees that the office action position (page5) that Bianchetti discloses that the "light guide (40) further comprises a straight wall section (cylindrical section 46 is straight longitudinal section-wise) immediately distal to the reflecting means (43)" because Sections 44 and 45 are in between sections 43 and 46. Applicant's claimed straight section of the light guide does not clearly limit from other parts of the light guide in the prior art not claimed by applicant's claim, and with the best understanding from it's lack of clarity, the claimed "immediately distal" is interpreted as best understood and broadly, where in this case Bianchetti's straight section (46) appears (figs.3 & 7) to be distal to reflector section (43). In regards to claims 25-28 and 32 rejected under 35 USC 103a unpatentable over Bianchetti in view of Kovac, applicant alleges claimed structure (i.e. straight wall section immediately distal) not met by Bianchetti already addressed above, and further states that Bianchetti and Kovac, alone or in combination, fail to teach or suggest the claimed invention and because there is no motivation to combine or modify the teaches, because Bianchetti teaches against the use of multiple LEDs. In rebuttal, this teaching away from multiple LEDs in Bianchetti is based on providing a light guide with a single LED in place of the multiple LEDs to have the desired effect of comparable transmission efficiency with sufficient luminous intensity to polymerize photosetting compounds (col.3, lines 3-13). Kovac clearly teaches further advantages (col.7-8) providing both multiple LEDs with light guide, and therefore provide adequate motivation as set forth in the Final Office action.